

September 24, 2001

# AGAR ADVISORY

UNITED STATES DEPARTMENT OF AGRICULTURE  
OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT  
AGAR ADVISORY NO. 36

CLASS JUSTIFICATION AND APPROVAL  
FOR OTHER THAN FULL AND OPEN COMPETITION

**INTRODUCTION:** This Agriculture Acquisition Regulation (AGAR) Advisory has been prepared to provide information on a class justification and approval for other than full and open competition under the current national emergency.

**SUMMARY:** The Department of Agriculture (USDA) has prepared a class justification and approval for other than full and open competition under the current national emergency. This is available for use by any USDA contracting activity.

**SPECIFIC ISSUES:**

On September 14, 2001, President George W. Bush signed a Declaration of National Emergency by Reason of Certain Terrorist Attacks. In that Proclamation, President Bush declared that a National Emergency has existed since September 11, 2001.

This National Emergency has given rise to a continuing urgent need for supplies and services of an unusual and compelling nature since September 11.

In responding to this national emergency any USDA contracting activity will need to respond with appropriately accelerated procedures. To empower and accelerate the acquisition process supporting this national emergency, the attached justification and approval has been prepared.

The attachment is provided in PDF format to make it available for inclusion in contract files.

If you have questions about this advisory, please contact J. R. Holcombe Jr. by telephone at (202) 720-8484, by fax at (202) 720-8972, or by email to [Richard.Holcombe@USDA.gov](mailto:Richard.Holcombe@USDA.gov).

This advisory is available on the USDA procurement homepage at <http://www.usda.gov/procurement/policy/advisories.html>.

**EXPIRATION DATE:** This Advisory is effective until canceled.

[END]

U. S. DEPARTMENT OF AGRICULTURE (USDA)  
CLASS JUSTIFICATION AND APPROVAL  
FOR OTHER THAN FULL AND OPEN COMPETITION

Federal law (41 U.S.C. 253(c)) authorizes under certain conditions, including unusual and compelling urgencies, contracting without providing for full and open competition. On September 14, 2001, President George W. Bush signed a Declaration of National Emergency by Reason of Certain Terrorist Attacks. In that Proclamation, President Bush declared that a National Emergency has existed since September 11, 2001.

This National Emergency has given rise to a continuing urgent need for supplies and services of an unusual and compelling nature since September 11.

Therefore;

For acquisitions made by any USDA contracting activity directly as a result of USDA's activities in response to the national emergency declared in the September 14, 2001 Presidential Proclamation; and

Based on 41 U.S.C. 253(c)(2), further described in Federal Acquisition Regulation 6.302-2, Unusual and Compelling Urgency, I, as USDA Senior Procurement Executive, waive:

- (1) The requirement for publication through the Government Point of Entry or Commerce Business Daily (FAR 5.2); and
- (2) The requirements for full and open competition applicable to the necessary acquisitions.

It is anticipated that actions taken under this approval will be of such unusual and compelling urgency that:

- (1) The dollar value of each acquisition and the total amount of this class approval cannot be forecast;
- (2) The nature of the emergency as opposed to a contractor's unique qualifications will require the use of this approval;
- (3) The Contracting Officer will not have access to (both in time, in the need for security, and via communication or transportation restraints) sufficient numbers of vendors to achieve normal competition;
- (4) Market research, beyond locating the most available responsible vendor, will require time not available in the circumstances;
- (5) The Contracting Officer's signature on the acquisition and certification above will evidence that the price is determined to be fair and reasonable under these circumstances; and

In order for these waivers to be used, the Contracting Officer need not add additional documentation to the file beyond:

- (1) Before the action or as soon as possible thereafter, place a copy of this approval in the acquisition file;
- (2) Place with this approval in the file (a) a short description of the action, (b) a short description of the supplies or services, (c) the estimated (or final) value of the action, and (d) a list of any vendor expressing an interest in writing in the acquisition; and
- (3) Certify that the descriptions immediately above are accurate representations to the best of their knowledge.

This justification and approval is accurate and complete to the best of my knowledge.

Signed: \_\_\_\_\_

W. R. Ashworth  
Senior Procurement Executive

Dated: \_\_\_\_\_

9.20.01